

Memorandum to the City of Markham Committee of Adjustment

August 8, 2024

File: A/070/24
Address: 94 Tomlinson Circle, Markham
Agent: Rijo Build Inc. (Jonathan Slaa)
Hearing Date: Wednesday, August 14, 2024

The following comments are provided on behalf of the Central Team:

On January 31, 2024, City of Markham Council enacted Comprehensive Zoning By-law 2024-19. As By-law 2024-19 is currently under appeal with the Ontario Land Tribunal (OLT), any Applications under Section 45 of the *Planning Act* that do not benefit from the transition clauses under Section 1.7 of By-law 2024-19 must comply with By-law 2024-19 and any previous By-laws in effect. As such, the Applicant is requesting relief from the following requirements from the “Residential – Established Neighbourhood Low Rise (RES-ENLR) Zone” in By-law 2024-19, and the “Eighth Density - Single Family Residential (R8) Zone” in By-law 118-79, as amended:

By-law 2024-19

- a) **By-law 2024-19, Section 4.8.9.1 b)**: a maximum uncovered deck projection of 53 percent of the requested rear yard setback, whereas the By-law permits hard landscaping to project into the rear yard a maximum of 50 percent of the required rear yard setback;
- b) **By-law 2024-19, Section 6.3.2.2 c)**: a maximum main building coverage of 41 percent for the first storey, whereas the By-law permits a maximum main building coverage of 30 percent for the first storey;
- c) **By-law 2024-19, Section 6.3.2.2 d)**: a maximum lot coverage of 41 percent, whereas the By-law permits a maximum lot coverage of 35 percent;
- d) **By-law 2024-19, Section 6.3.2.2 e)**: a maximum distance of 23.4 metres for the first storey measured from the established building line, whereas the By-law permits a maximum distance of 19 metres from the established building line;
- e) **By-law 2024-19, Section 6.3.2.2 g)**: a minimum rear yard setback of 4.84 metres, whereas the By-law requires a minimum rear yard setback of 7.5 metres;
- f) **By-law 2024-19, Section 6.3.2.2 i)**: a combined interior side yard of 3.17 metres; whereas the By-law requires a combined side yard of 4 metres;

By-law 118-79

- a) **By-law 118-79, Section 7.2:** a minimum rear yard setback of 4.84 metres, whereas the By-law requires a minimum of 7.5 metres;
- b) **By-law 118-79, Section 7.2:** a maximum lot coverage of 41 percent, whereas the By-law permits a maximum of 33.33 percent;

as it relates to a proposed rear addition and uncovered deck.

BACKGROUND

Property Description

The 474.36 m² (5,105.97 ft²) subject lands are located south of John Button Boulevard, west of Rodick Road on the south side of Tomlinson Circle (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised of two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments.

There is an existing two-storey detached dwelling on the Subject Lands, which according to assessment records was constructed in 1988. In 2014, a minor variance application (A/168/14) was approved for a reduced rear yard setback and an increased maximum lot coverage to accommodate a 12.08 m² (130 ft²) one-storey sun-room addition.

Proposal

The Applicant is proposing to construct a one-storey, 20.6 m² (221.7 ft²) covered unheated sun deck with an attached 11.5 m² (123.8 ft²) deck (the “Proposed Development”) (refer to Appendix “B” – Plans).

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the Subject Lands as “Residential Low Rise”, which permits low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. These criteria are established to ensure that infill developments are appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation. Planning Staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Zoning By-law 2024-19

The Subject Lands are zoned “RES-ENLR (Residential – Established Neighbourhood Low Rise)” under 2024-19, which permits one single detached dwelling per lot.

The Proposed Development does not comply with the By-law requirements as it relates to rear yard hard landscape projection, first-storey building coverage, lot coverage, first-storey distance from established building line, rear yard setback, and combined interior side yard setback.

Zoning By-law 118-79

The Subject Lands are zoned "Eighth Density - Single Family Residential (R8)" under By-law 118-79, as amended, which permits one single detached dwelling per lot. The Proposed Development does not comply with the By-law requirements as it relates to rear yard setback and lot coverage.

Zoning Preliminary Review (ZPR) Not Undertaken

The Owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However, the Applicant has received comments from the Building Department through their Building Permit review process to confirm the variances required for the Proposed Development. Through further internal discussion, Zoning Staff identified an additional variance on July 26, 2024.

Consequently, it is the Owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the Proposed Development. If the variances requested in this application contain errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

COMMENTS

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Increase in Rear Yard Hard Landscape Projection

The Applicant is requesting to permit a maximum uncovered deck projection of 53 percent of the requested rear yard setback, whereas the By-law permits hard landscaping to project into the rear yard a maximum of 50 percent of the required rear yard setback.

This variance is tied to the requested rear yard setback of 4.84 m (15.87 ft) associated with the Proposed Development. The uncovered deck projects approximately 2.59 m (8.5 ft), which is 53 percent of the requested 4.84 m (15.87 ft) rear yard setback.

Staff note that if the Proposed Development met the required rear yard setback of 7.5 m (24.60 ft) they would be permitted a deck projection as large as 3.75 m (12.3 ft).

Engineering Staff have reviewed the application and have no concern with the requested variance as it relates to site drainage. Staff are of the opinion that the variance is minor in nature and have no concern with the requested variance given that the proposed deck projection is smaller than what would be permitted and is in keeping with the building's east wall line.

Increase in Main Building Coverage (first storey)

The Applicant is requesting relief for a main building coverage for the first-storey of 41 percent (189.83 m² or 2,043.31 ft²) of the lot area, whereas the By-law permits a maximum first-storey coverage of 30 percent (139.01 m² or 1,496.37 ft²) of the lot area. This represents an additional 11 percent (50.82 m² or 547.02 ft²) coverage of the lot area for the first-storey.

Staff note that the proposed increase in building coverage is confined to the rear of the property and will not add any scale or massing to the character of the street. Furthermore, the requested variance is in line with the existing east wall of the building and maintains the established side yard setback. As such, Staff are satisfied that the request meets the intent of the By-law and have no concerns with the requested variance.

Increase in Maximum Lot Coverage

The Applicant is requesting relief from By-law 2024-19 for a maximum lot coverage of 41 percent, whereas the By-law permits a maximum lot coverage of 35 percent. The Applicant is also requesting relief under By-law 118-79, as amended, for a maximum lot coverage of 41 percent, whereas the By-law permits a maximum lot coverage of 33.33 percent.

As noted above, a previous minor variance (A/168/14) was granted permitting a maximum lot coverage of 34.60 percent, whereas the By-law permits a maximum lot coverage of 33.33 percent.

Staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the dwelling, as the Proposed Development is confined to the rear of the property. The resultant dwelling is

generally consistent with other dwellings in the area and therefore Staff have no concerns with the requested variance.

Maximum Distance of the Main Building from the Established Building Line (first storey)

The Applicant is requesting a maximum distance of the main building from the established building line of 23.4 m (76.77 ft) for the first storey whereas the By-law permits a maximum distance of 19 m (62.34 ft). This represents an increase of 4.4 m (14.43 ft) for the first storey and an increase of 2.81 m (9.22 ft) for the second storey.

Staff note that the established building line is defined as “a line that is the average distance between the front lot line and the nearest wall (including the private garage) of the main building facing the front lot line on the two neighbouring lots fronting the same street”. The intent of this By-law provision is to regulate the building depth and massing in relation to the neighbouring lots.

Staff are satisfied that sufficient side yard setbacks are provided and maintained to mitigate any potential impacts that the proposed building depth and massing may have on adjacent lots.

Reduction in Rear Yard Setback

The Applicant is requesting relief from By-laws 2024-19 and 118-79, as amended, to permit a minimum rear yard setback of 4.84 m (15.87 ft), whereas both By-laws require a minimum rear yard setback of 7.5 m (24.6 ft). This represents a reduction of approximately 2.66 m (8.73 ft).

As noted above, a previous minor variance (A/168/14) was granted permitting a minimum rear yard setback of 7.17 m (23.52 ft), whereas the By-law permits a minimum rear yard setback of 7.5 m (24.60 ft).

The variance is entirely attributable to the proposed rear covered sun deck on the east portion of the main rear wall. The west portion of the main rear wall of the building provides a rear yard setback of 7.17 m (23.52 ft), which still meets the reduced rear yard setback approved in 2014. Staff are of the opinion that the requested variance will not have a marked impact to adjacent properties and are minor in nature, as the Proposed Development does not span the entire width of the building and maintains the existing side yard setbacks.

Reduced Interior Side Yard Setback

The Applicant is requesting a combined minimum interior side yard setback of 3.17 m (10.40 ft), whereas the By-law requires a combined minimum interior side yard setback of 4 m (13.12 ft).

The requested variance was identified by Zoning Staff on July 26, 2024. The purpose of this variance is to recognize the existing legal non-conforming

condition of the main building while also addressing the variance for the Proposed Development.

Staff are of the opinion that the variance is minor in nature given that the Proposed Development is in keeping with the existing legal non-conforming easterly interior side yard setback of the building and does not diminish the side yard setback further.

PUBLIC INPUT SUMMARY

No written submissions were received as of August 8, 2024. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The *Planning Act*, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the *Planning Act* and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the Applicant to demonstrate why they should be granted relief from the requirements of the zoning By-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

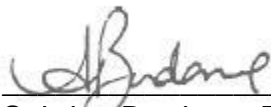
Please refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Brendan Chiu, Planner I, Central District

REVIEWED BY:



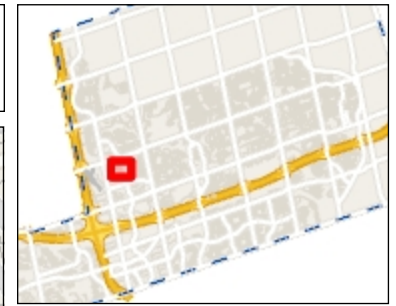
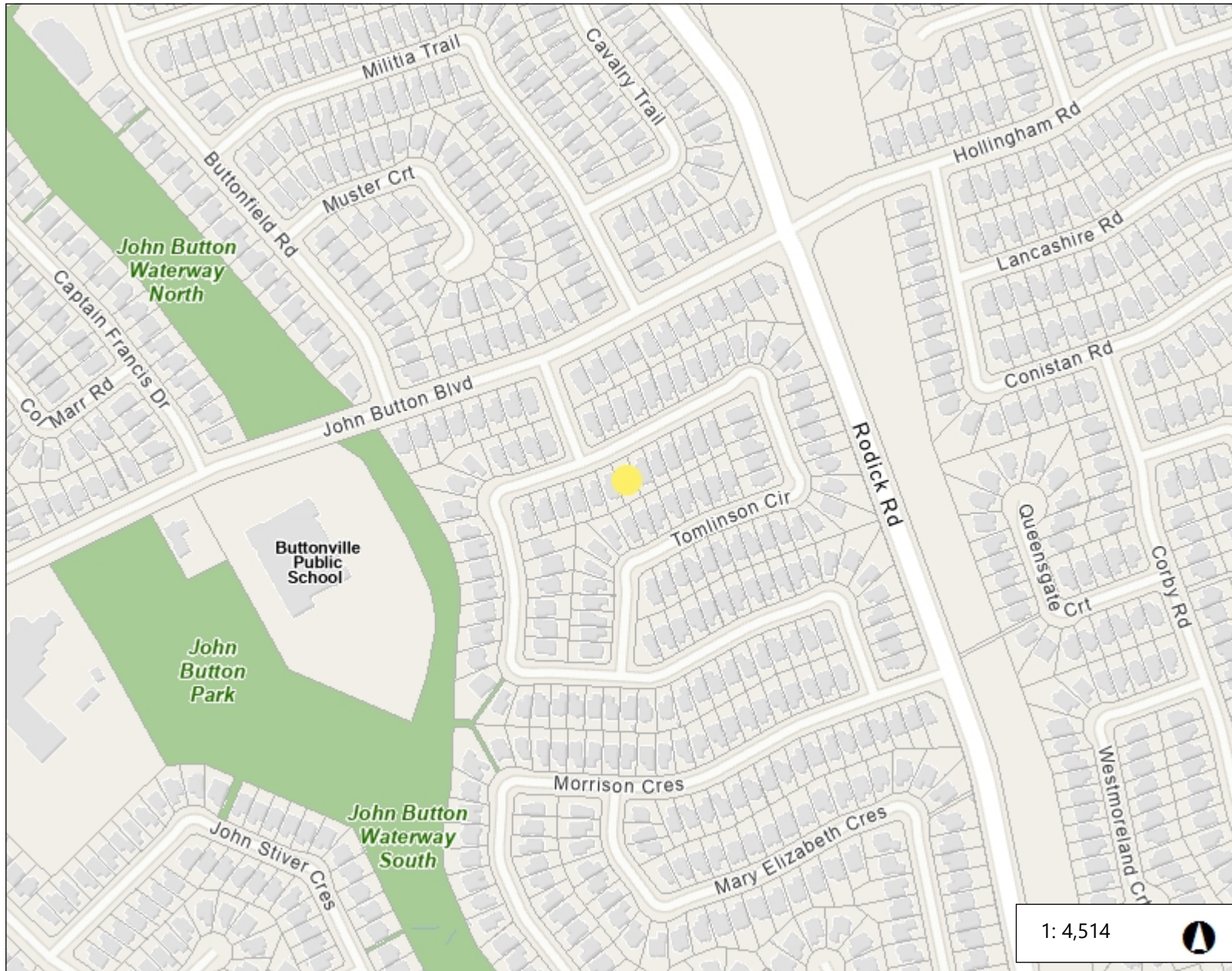
Sabrina Bordone, Development Manager, Central District

APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Plans

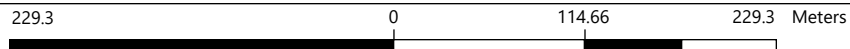
Appendix "C" – A/070/24 Conditions of Approval



Legend

- Subject Lands
- 94 Tomlinson Circle

1: 4,514



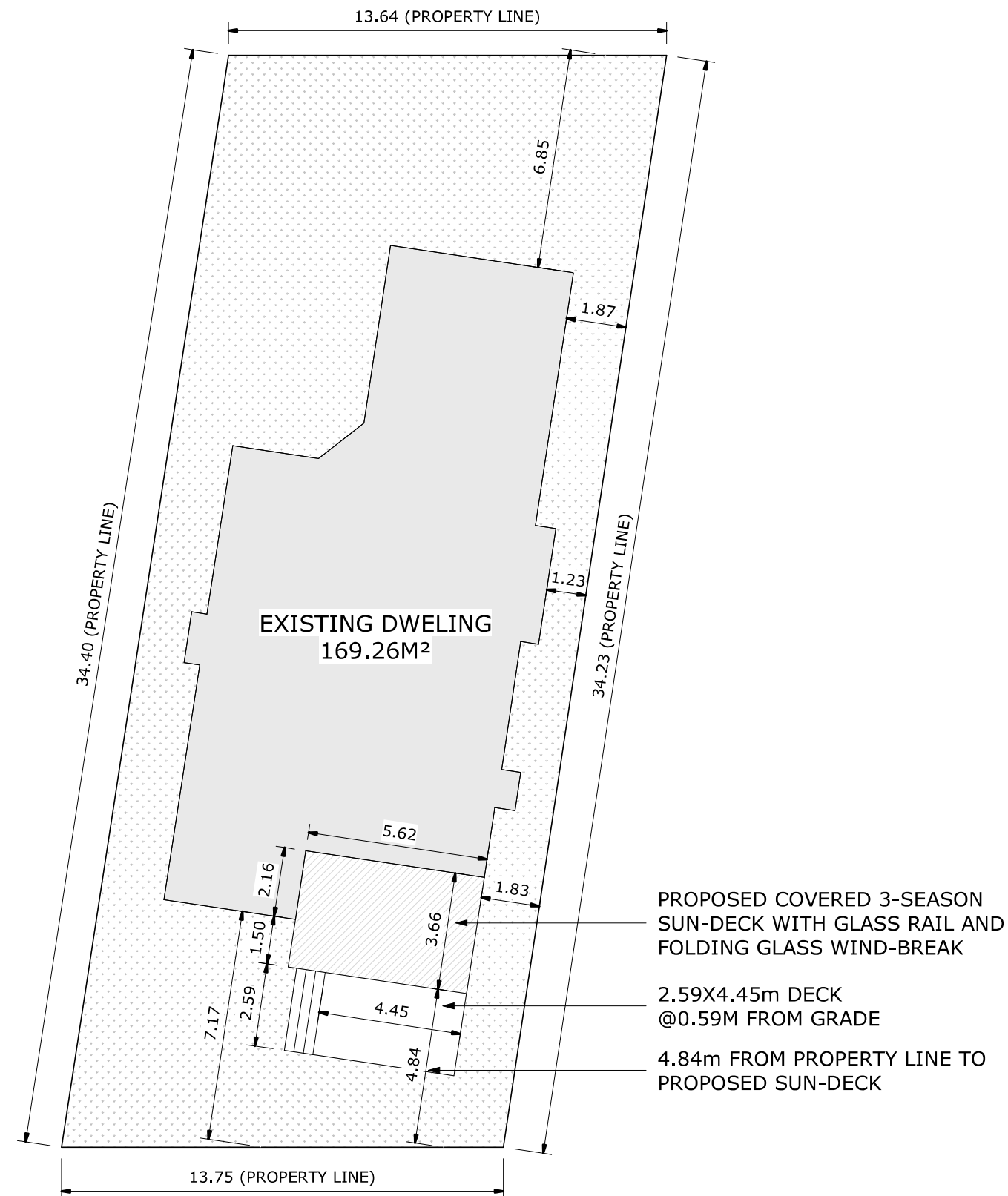
Notes

AREA STATEMENT:

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|--|----------------------|
| TOTAL LOT AREA | 463.39m ² |
| EXISTING DWELLING FOOTPRINT (EXCLUDING PORCH) | 169.26m ² |
| PROPOSED LUMON PATIO COVER (EXCLUDING OVERHANGS) | 20.57m ² |
| TOTAL LOT COVERAGE (EXCLUDING OVERHANG) | 40.97% |

SETBACKS:

| | |
|---|-------|
| EXISTING REAR YARD SETBACK | 7.17m |
| PROPOSED REAR YARD SETBACK (EXCLUDING OVERHANG) | 4.84m |



① SITE PLAN
1 : 175

Appendix B

File: 24.180239.000.00.MNV
Date: 8/8/2024
MM/DD/YY



600 Zenway Blvd Unit 5
Woodbridge, ON, L4H 3M9
PH: +1 887 707 7427
info.canada@lumon.com



2024-07-03
FOR NEW STRUCTURAL ELEMENTS ONLY

| REVISION TABLE | | No. | Description | Date |
|----------------|---------------|-----|-------------|------------|
| A.00 | DRAWING | | | 04/04/2024 |
| B.00 | SQUAD CHECK | | | 11/04/2024 |
| C.00 | ENGINEER | | | 11/04/2024 |
| C.01 | ENGINEER REV. | | | 29/04/2024 |
| C.02 | PERMIT REV. | | | 14/05/2024 |
| C.03 | PERMIT REV. | | | 02/07/2024 |

94 Tomlinson Cir, Markham, ON

SITE PLAN

PROJECT NUMBER 50741099

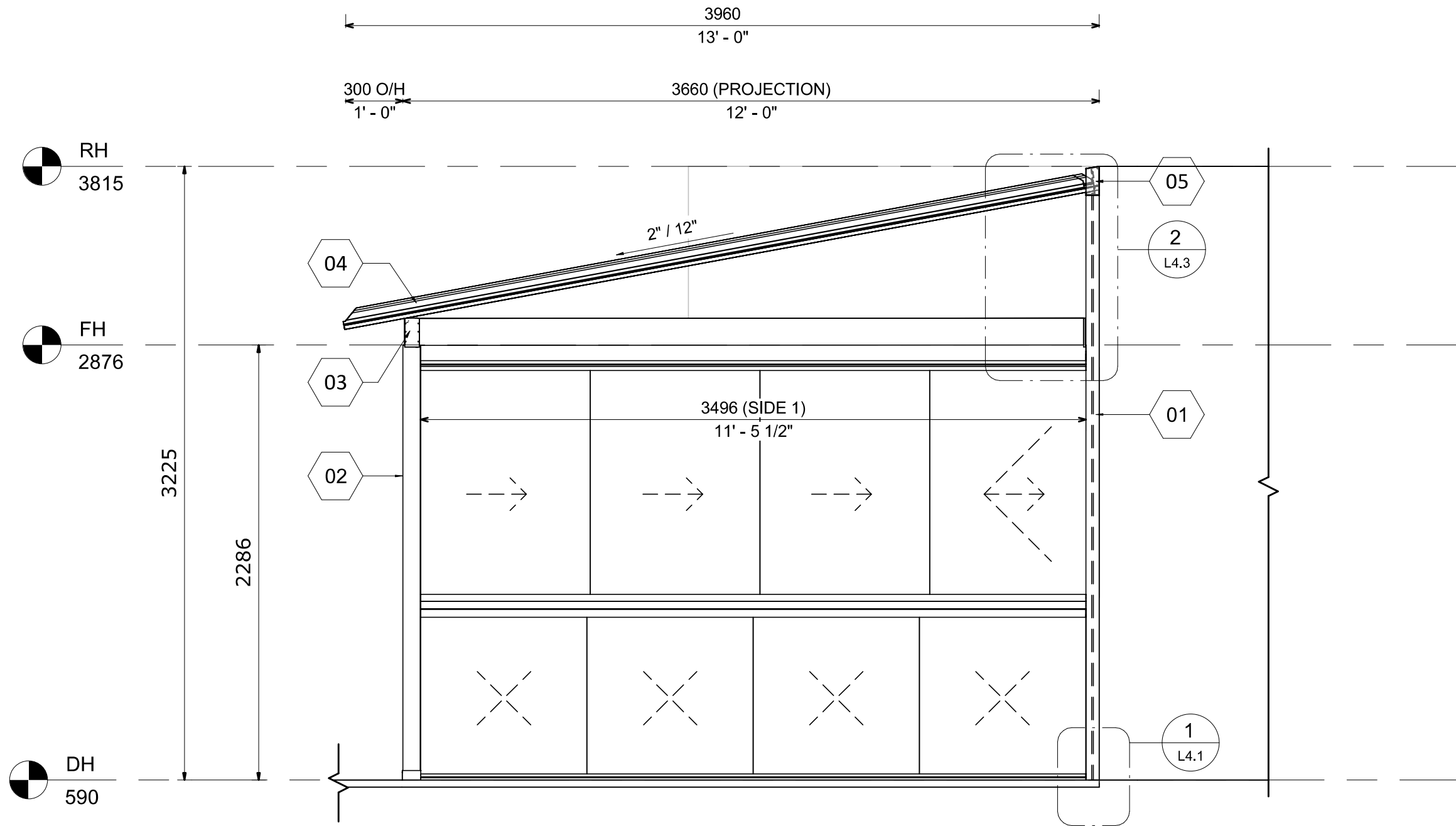
L0.3

Scale As indicated

Appendix B

File: 24.180239.000.00.MNV

Date: 8/8/2024
MM/DD/YY



① EAST ELEVATION
1 : 25

REFER TO MEMBER LEGEND TABLE AT PAGE
L0.1 - COVER PAGE FOR ROOFING & ROOF
FRAMING COMPONENTS SPECIFICATIONS.



600 Zenway Blvd Unit 5
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94 Tomlinson Cir, Markham, ON

ELEVATIONS

PROJECT NUMBER 50741099

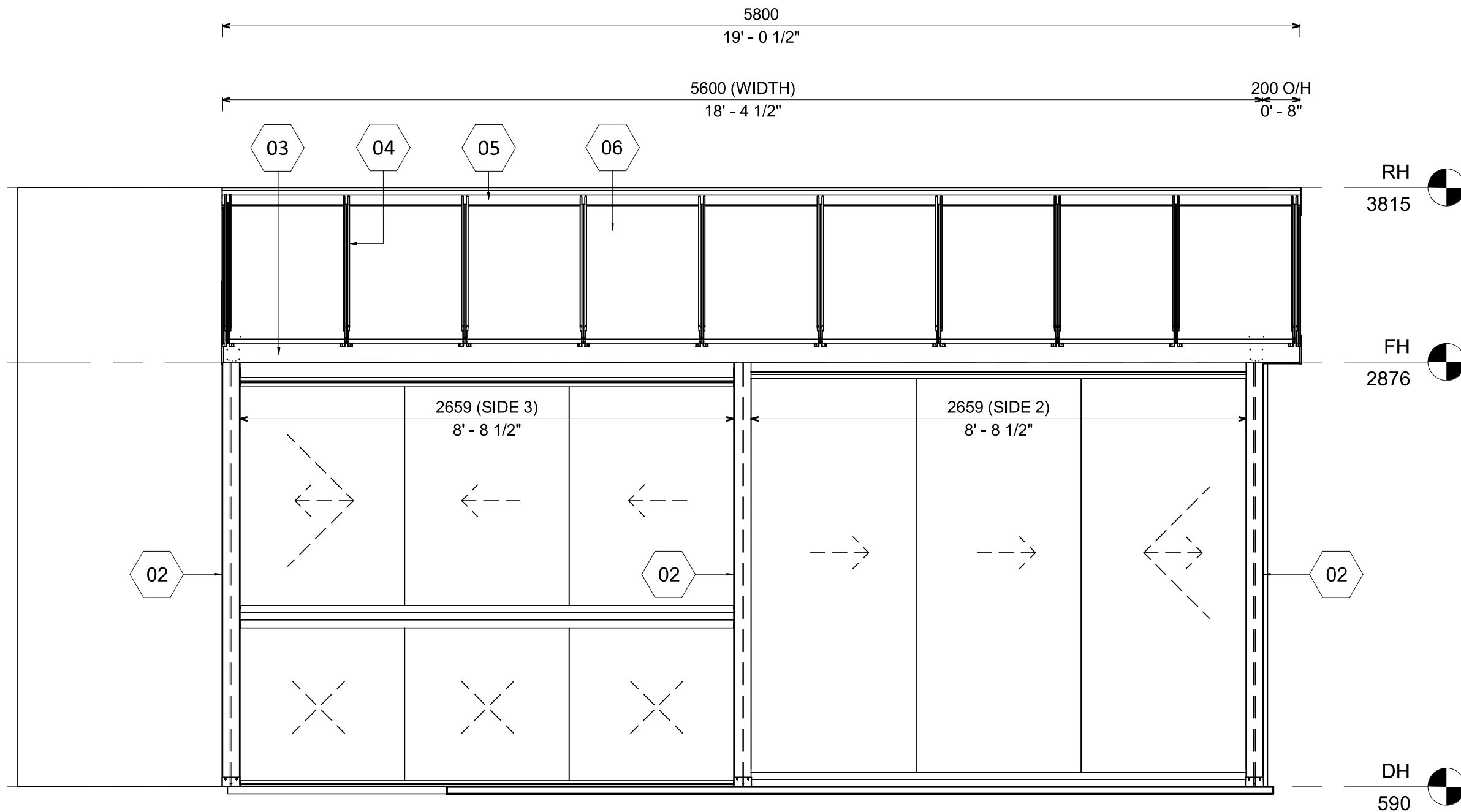
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Scale 1 : 25

Appendix B

File: 24.180239.000.00.MNV

Date: 8/8/2024
MM/DD/YY



① SOUTH ELEVATION
1 : 25

REFER TO MEMBER LEGEND TABLE AT PAGE L0.1 - COVER PAGE FOR ROOFING & ROOF FRAMING COMPONENTS SPECIFICATIONS.

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| C.00 | ENGINEER | 11/04/2024 | | |
| C.01 | ENGINEER REV. | 29/04/2024 | | |
| C.02 | PERMIT REV. | 14/05/2024 | | |
| C.03 | PERMIT REV. | 02/07/2024 | | |

94 Tomlinson Cir, Markham, ON

ELEVATIONS

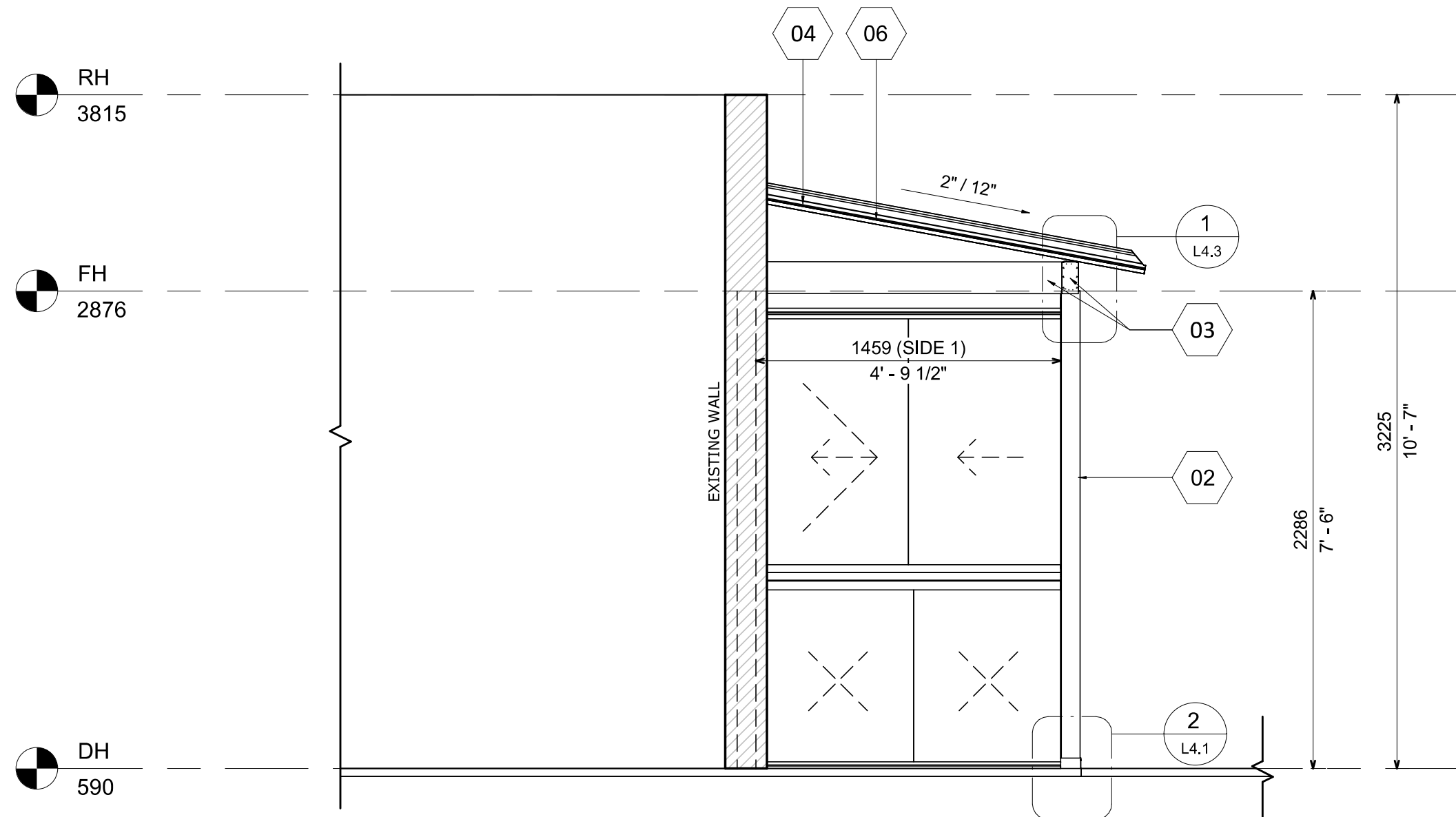
PROJECT NUMBER 50741099

L2.2

Scale 1 : 25

Appendix B

File: 24.180239.000.00.MNV
 Date: 8/8/2024
MM/DD/YY



1 WEST ELEVATION
1 : 25

REFER TO MEMBER LEGEND TABLE AT PAGE L0.1 - COVER PAGE FOR ROOFING & ROOF FRAMING COMPONENTS SPECIFICATIONS.

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| C.03 | PERMIT REV. | 02/07/2024 | | |
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94 Tomlinson Cir, Markham, ON
 ELEVATIONS
 PROJECT NUMBER 50741099
 L2.3
 Scale 1 : 25

APPENDIX “C”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/070/24

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction.

CONDITIONS PREPARED BY:



Brendan Chiu, Planner I, Central District